

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE: : CHAPTER 1  
:   
UPTOWN PARTNERS, LP : Case No. 1:23-bk-00988-HWV  
DEBTOR :

**THE CITY OF HARRISBURG AND THE HARRISBURG  
REDEVELOPMENT AUTHORITY'S JOINT OBJECTION TO THE  
DEBTOR'S APPLICATION TO EMPLOY HILCO REAL ESTATE, LLC**

The City of Harrisburg (the “City”) and the Harrisburg Redevelopment Authority (the “HRA”) (collectively the “Objectors”), by and through their undersigned counsel, object to Uptown Partners, LP’s (the “Debtor” or “Uptown”) Application to Employ (the “Application”) Hilco Real Estate, LLC (“Hilco”) and in support thereof aver the following:

*Bankruptcy Background*

1. On August 23, 2023, Uptown filed a motion to convert its Chapter 7 bankruptcy case to a Chapter 11, Subchapter V case.
2. Although Uptown is ineligible to be a small business debtor under Chapter 11, Subchapter V, it has an absolute right to convert its case to a Chapter 11 case pursuant to 11 U.S.C. § 706(a).
3. The Objectors believe and therefore aver that Uptown’s case is currently converted to a Chapter 11 case in light of the plain language of § 706(a) and it is operating as a debtor in possession pursuant to 11 U.S.C. § 1107.
4. The Objectors hold various secured, or under-secured, claims against Uptown that is secured by the real property known as the Residence of Governor’s Square, 2018 N. 5<sup>th</sup> Street, Harrisburg, Pennsylvania, 17110 (the “Real Property”).

### *Application to Employ*

5. On August 29, 2023, Uptown filed the Application to employ Hilco and attached a proposed real estate consulting and advisory services agreement (the “Brokerage Agreement”).

6. The Brokerage Agreement indicates that Hilco will earn a fee of 5% of the “Gross Sale Proceeds” if the Real Property is transferred or sold.

7. The Brokerage Agreement defines the words “Gross Sale Proceeds” as the “...aggregate cash and non-cash consideration received by the Debtor” and the value of the “non-cash consideration” will be determined by Hilco and Uptown.

8. The Brokerage Agreement is silent as to who or what entity would pay a commission if there is no cash brought into the estate from a “non-cash consideration” transfer or sale of the Real Estate.

### *Objection*

9. The Objectors incorporate by reference paragraphs 1 through 8 above.

10. The Real Estate is in severe dis-repair and any commercial buyer of the Real Estate will have to contribute millions of dollars to bring the Real Estate up to code or else it will face, among other things, ongoing fines as the owner of the Real Estate.

11. The Objectors object to Hilco being employed pursuant to the terms of the Brokerage Agreement because:

- (a) Uptown should only be compensated on and from the physical sale proceeds brought into the estate from a sale of the Real Estate as opposed to being compensated based upon the aggregate of the physical sale proceeds brought into the estate and subjective “non-cash consideration” that only Uptown and Hilco will determine,

- (b) the Brokerage Agreement should exclude any right to a commission or payment for the sale or transfer of the Real Estate to a governmental entity that is in the process, or has been in the process, of trying to become the owner of the Real Estate to protect the underlying residents,
- (c) Hilco and Uptown should be compelled to waive any potential surcharge of the Real Estate under 11 U.S.C. § 506 given the condition of the Real Estate and the obvious lack of benefit to secured creditors, and
- (d) Secured creditors should not be required to pay any fee to Hilco in the event there are no physical sale proceeds from the sale or transfer of the Real Estate.

WHEREFORE, the City of Harrisburg and the Harrisburg Redevelopment Authority request this Court to deny Uptown Partners, LLC's Application to Employ Hilco Real Estate, LLC pursuant to the terms of the Brokerage Agreement without prejudice along with such other relief that is just and proper.

McNEES WALLACE & NURICK LLC

Date: September 11, 2023

By: /s/Clayton W. Davidson

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**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

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*Attorneys for City of Harrisburg and the  
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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this date a true and correct copy of the foregoing Joint Objection to the Debtor's Application to Employ Hilco Real Estate, LLC was electronically filed with the Clerk of Court of the United States District Court for the Middle District of Pennsylvania using the CM/ECF system with electronic notice upon all attorneys of record.

McNEES WALLACE & NURICK LLC

Date: September 11, 2023

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